

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0167

Income Tax

Fiscal years June 30, 1995, June 30, 1996, June 30, 1997, and February 15, 1998

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ISSUE

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the negligence penalty.

STATEMENT OF FACTS

The negligence penalty was assessed on an income tax assessment that resulted from a Department audit conducted for the fiscal years ending June 30, 1995, June 30, 1996, June 30, 1997, and February 15, 1998.

The taxpayer provides collection services for its customers. The taxpayer files with its parent for federal purposes. For Indiana purposes, the taxpayer files a separate return.

I. **Tax Administration** – Penalty

DISCUSSION

The taxpayer argues the negligence penalty should be waived as the taxpayer has complied with Indiana tax regulations in a good faith manner. Furthermore, the error was the result of the unintentional misinterpretation tax regulations.

45 IAC 15-11-2(b) states, "Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions

provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

The Department finds the taxpayer was ignorant of Indiana tax regulations. Ignorance is negligence and negligence is subject to penalty. As such, the Department finds the penalty proper and denies the penalty protest.

FINDING

The taxpayer’s penalty protest is denied.